

DMR ADVISORY COUNCIL MEETING
April 16, 2003, 1:00 p.m.
Minutes

1. Welcome

A meeting of the Department of Marine Resources (DMR) Advisory Council (AC) was held on this date at the DMR office building in Hallowell. Council members who attended the meeting included: **Chair Blair Pyne, Lori Howell, David Turner, Steve Train, Bill Sutter, Craig Pendleton, Ralph Smith, and David Pecci.** Department staff included Commissioner Lapointe, Deputy Commissioner Etnier, Margaret Hunter, Bruce Chamberlain and L. Churchill. Other attendees included Dale Mitchell – Passamaquoddy Tribe, Pleasant Point and Erin Fisher – UMO graduate student.

2. Approval of minutes (March 19, 2003) (Handout)

- ***Motion: (L. Howell, S. Train) Motion to approve the minutes of the March 19, 2003 meeting.***

3. Regulations - Action

Chapter 26.15(1)(B) Sea Urchin Harvester License Limited Entry System, Exit Ratio definition, Chapter 26.15(2)(B)(C) & (G) Limited Entry Procedures: deadlines, and Chapter 26.15(3)(B)(C) & (D) Issuing the Awarded Licenses (Handout)

Margaret Hunter reviewed the history of the proposed rulemaking. The law authorizing limited-entry must allow some entry and not eliminate entry entirely as suggested in the comments. The rulemaking also contains date or deadline changes for administrative purposes.

- ***Motion: (B. Sutter, C. Pendleton) Motion to approve.***
Discussion points: The percentage of the number of licenses issued over the past few years; license sales dropped from 973 in 2001 to 887 in 2002; and there is an estimated 400 active participants in the fishery; separate zone management ideas. S. Train: Support as is however, in his area there were only a few scallop divers that has now changed with the decrease in the urchin resource; now the urchin divers switch over to scallops and have picked areas clean that the draggers were never able to harvest such as cracks and crevices in ledges.
Motion continued: Unanimous. The council voted to approve the rulemaking in Chapter 26.15 as written.

6. Special License requests

Passamaquoddy Tribe, transplanting of soft-shell clams (Handout)

Dale Mitchell presented the special license request on behalf of the Passamaquoddy Tribe at Pleasant Point for the purpose of transplanting seed soft shell clams. The tribe seeks to determine the potential productivity of soft shell clams in the mud flats adjacent to tribal land in Perry. The seed would come from the Beals Island Regional Shellfish Hatchery. See handout for description. The 4 sites are located in areas classified as “open approved” for the harvest of shellfish and have

requested the specific sites intentionally. They are seeking the ACOE permit. The Tribe has wardens that will be utilized to protect the effort from poaching.

- ***Motion: (C. Pendleton, D. Turner) Motion to approve. Unanimous. The council voted to approve the special license request for the transplanting of soft-shell clams adjacent to Passamaquoddy Tribal property at Pleasant, Perry.***

Erin Fisher, UMO Graduate student, scallop research (Handout)

Erin Fisher presented her request. She explained that she would be able to use a newly available genetic tool to identify separate invertebrate species at microscopic levels, as many species of bivalves are indistinguishable at such same sizes. In the future she anticipates geo chemical tools to be developed that would enable researchers to determine the location of the parents. Temperature probes will also be deployed. The data will be available to the public. She has also checked with Terry Stockwell that the gear will be considered whale safe. Apply standard requirements.

- ***Motion: (L. Howell, C. Pendleton) Motion to approve. Unanimous. The council voted to approve the special license request by UMO graduate student Erin Fisher for scallop research.***

Dr. Robin Seeley, research and monitoring of green crabs and the Asian crab (Handouts)

Dr. Seeley was available at the University of Cornell by phone however, the members accepted the review by L. Churchill of this request given her knowledge of Dr. Seeley's work on shore crab monitoring and past work monitoring shore crabs for the Department.

- ***Motion: (C. Pendleton, S. Train) Motion to approve. Unanimous. The council voted to approve the special license request by Dr. Seeley on green crabs and Asian crabs provided that all Asian crabs used in submerged cages at Wells be captured in Wells; and all crabs transported for laboratory work from Connecticut to the Isle of Shoals lab be quarantined and contained such that the crabs, water and all marine related organisms used in transport from Connecticut be disposed of other than into Maine territorial or coastal waters.***

5. Report(s) – NEFMC, ASMFC and Legislature (Handouts)

Dep. Comm. Lew Flagg and Comm. Lapointe reviewed the information on the handout regarding the NEFMC first. There was an all day meeting April 15th on groundfish and the discussion items included implementation of hard TAC's, directed versus incidental fisheries; how to approach the biological reference points; deadline dates, George's Bank cod debate; quotas; IFQ's – didn't go very far in discussions; Amendment 13 lawsuit. The status of Sen. Collins lawsuit legislation is not known at this time. Discussion points: a hard TAC would result in a derby type fishery; it would put pressure on other fisheries like scallops or similar to what happens now in the shrimp fishery; constraints placed on the front end would be intended to reduce a hard TAC; the days at sea are now so low it may not be worth the wear and tear on a boat to fish; then you have a problem of being penalized down the road by IFQ's because (we) didn't fish to help the stocks rebuild; and there could be large amounts of discards on shore if it opens in May.

There will be a meeting in May; then from July 15-17 in Portland on Amendment 13 with hearings in August and September; October NMFS has to work up the comments and the Council reach final approval in November with 5-6 months left to implement by May 2004. Comm. Lapointe indicated that he plans to have meetings to distill the very large document down to what impacts Maine. There is now a habitat component to this issue. Discussion was taken up on the biological

reference points and changing standard(s) that is frustrating to fishermen. Dep. Comm. Flagg stated that the Council passed a motion on the recent peer review to have the date by September 2003. The biological reference points are amendable items, yes and with some points they are lower using other models. Adjustments may be made through the amendment review process.

Herring: The Canadian and U.S. stock assessments vary widely and are under review; brief discussion.

Mid Atlantic mackerel committee: discussion on herring weir and stop seine; Dep. Comm. Flagg and David Turner will be attending a meeting with the weir operators on April 17th. Dep. Comm. Flagg explained that the Menhaden Plan does not restrict access should they come back. B. Pyne: When the quota in Area 1A is reached for herring the area is closed to that fishery. De. Comm. L. Flagg: There will be 4 scoping meetings on menhaden coming up, 2 in Massachusetts, one in New Jersey and one in Rockland, Maine. They now use an IVR call in system and use that system to announce meetings, etc.

4. Regulations - Pending

Chapter 25.93(F) Zone D Exit Ratio

Comm. Lapointe reviewed the history of Zone D and the current 1:1 exit ratio. Discussion points: In response to B. Sutter's question the Commissioner indicated that the agency does not have the specific data to determine the number of fishermen that the lobster fishery may support. There is an element of determining what is reasonable in every rulemaking such as the urchin council wanting to block entrants by using an exit ratio of 20:1 versus 10:1 that still allows access. Regarding lobster without controlled access it would be even larger. B Pyne: Zone D was next to Zone G in the large number of license holders. There are persons currently on the waiting list for Zone D. The number of traps has increased from 2.1 – 3.1 million and there is a chance that NMFS may find Maine out of compliance. Comm. Lapointe: We haven't had a consistent number of traps. B. Pyne: The first few years the retiring licenses are often latent licenses. S. Train: If you are on a waiting for another zone one may receive the increased number of tags allowed year while waiting. Comm. Lapointe: It has been discussed that 130 individual districts each set their own limited-entry number. R. Smith: His father at age 85 still fishes 650 traps (not a latent license example)! (C. Pendleton had to depart the meeting.)

Chapters 15 – 20 & 9 Shellfish Sanitation – web info update of drafts (Handouts)

Also see: http://www.state.me.us/dmr/rulemaking/shellfishrules_draft/draft_rules.htm

L. Churchill and Bruce Chamberlain: An introductory presentation on the drafts of Chapter 9 and 15 – 20 were presented at the Fishermen's Forum on March 27th. Shellfish dealer workshops to review existing and draft rulemaking proposals have been held on March 18, 20 and April 10, 2003 in Boothbay Harbor and Ellsworth. Meeting to review the draft chapter 9 for harvesters are planned. The 3rd draft of Chapter 16 has been posted on the Department's web site as of this week. Changes are ongoing at this time based on continuing legal, FDA, and Department review of input from meetings primarily with the dealers to date. Today's discussion included a review on the current drafts for Chapter's 15 and 16 being updated in largely for compliance with the National Shellfish Sanitation Program (NSSP), which is regulated by the Interstate Shellfish Sanitation Conference (ISSC). Advisory Council members and Certified Shellfish Dealers Lori Howell and Ralph Smith assisted in the presentation and discussion on the pros and cons of sections of text that directly impact their activities in the shellfish business. L. Howell, and the Department are example participants in the ISSC. If anyone has questions about membership and or participation

in the ISSC Lori Howell indicated she is more than willing to answer questions and explain the process, etc.

Primary discussion points: The legislature in the past has not supported the need for trace-ability for harvesters versus having the harvesters only sell the certified dealers. Maine is out of compliance with the FDA on this issue. There are differences on rules for product that is shipped in state versus out-of-state. Buyer trucks are a tough issue, as they are not allowed under the NSSP however, for various reasons this is something that the harvesters' want as it can impact the prices they get. Personnel are currently working with the federal inspector on alternative ideas for this issue based on how it is handled in other states and not be considered a violation of the NSSP. Truthfulness of harvesters reporting where product was dug is another tough enforcement issue. Quarterly inspections for dealer wet storage may be difficult for the limited number of agency personnel to do this. Irradiation of shellfish is not yet approved in Maine according to L. Howell. Tags must accompany product including bulk tagging for trace-ability; for example, 100 bulk shipped containers of product could end up in 100 separate places therefore each "container" needs to be tagged should a health problem arise. HACCP protocols are mandatory and have been for at least 5 years. The wet storage marking text has been simplified, as have many sections in the drafts that were mailed to members. The requirements for bathroom(s) have been correct to comply with the Department of Agriculture's Food Code. The apparent allowance for smoking in section 16.17(C) is a contradiction and needs to be removed. Remove "dead" from 16.21(B) if this hasn't been updated yet. There is an existing provision in statutes to contact enforcement if a vehicle breaks down and a temporary leased vehicle is needed. The Ice requirement for vessels is a requirement under the NSSP according to their time-temperature matrix and is an example of an item in the NSSP that are often driven by the larger nationwide oyster industry that drives many of the requirements in the NSSP. However, changes may be made to the NSSP through the ISSC that meets annually and alternates meetings between the east and west coasts. The draft review of Chapters 15 – 20 and 9 will continue. Please remember that these are drafts and updates are posted when available on the Department's web site, see web address above and on the handouts.

5. Report(s) – Legislature continued: See handout.

The meeting adjourned (no quorum).

Reminders: The May 21st meeting will be held in the large conference room at the Boothbay Laboratory. For web directions see: <http://www.state.me.us/dmr/directions/directions.html>